

# Colorado River Agreement a Harbinger of Future Cooperation



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The United States and Mexico have agreed to new [rules](#) governing the allocation of water from the Colorado River, in a move that comes as a result of increasing collaboration between the countries on water management issues and will likely lead the way to further joint efforts. (Mary Kelly, from the Trans Pecos Water and Land Trust, recently published a [piece](#) in the San Antonio Express-News that touched on the potential for a similar approach toward water in the Rio Grande basin.)

The Colorado, of course, is the lifeblood of the desert Southwest. It has been the subject of interminable litigation – the Supreme Court has published ten [opinions](#) stemming from disputes between California and Arizona – and round after round of negotiation. It could be the only river in the world that has its own distinct body of law – the so-called Law of the River – and it probably is the most heavily managed.

But for the last century, the United States, which is home to all major tributaries to the Colorado, has made most of the key resource management decisions domestically, without much consideration for Mexican interests. The United States did not even recognize that Mexico had a legal right to Colorado River water until after the construction of the Hoover and Imperial dams.

In 1944, the two countries entered into a [treaty](#) establishing their respective rights to their bi-national rivers. The treaty reserves a disproportionate share of Colorado River water for the United States and obligates the United States to deliver only 1.5 million acre-feet of water a year to Mexico. The treaty includes provisions for surpluses and droughts, but they’re toothless.

If the United States delivers the required 1.5 million acre-feet to Mexico and supplies its own “uses” – a term the treaty does not define – and at that point the Colorado has a surplus, Mexico is entitled to an unspecified “additional quantity” not to exceed 1.7 million acre feet. Effectively, the treaty grants Mexico only a paper right to surplus water and even that is capped. In 2001, the Department of Interior and American states in the river basin negotiated guidelines for apportioning surpluses; Mexico received nothing.

The provision on shortages is equally nebulous. If there is an “extraordinary drought” – another term the treaty does not define – the United States may reduce deliveries to Mexico “in the same proportion as consumptive uses in the United States are reduced.” In 2007, at a time when Texas landowners were pursuing NAFTA Chapter 11 [claims](#) against Mexico over Rio Grande deliveries, the DOI and American states settled upon drought guidelines for the Colorado that more or less ignored the rights and burdens that would be due to Mexico.

The new rules – Minute 319 – establish firm rights that are aligned with the American 2001 and 2007 guidelines for sharing surpluses and shortages. Under the minute, Mexico’s allotment increases when Lake Mead rises above 1,145 and decreases when lake levels fall below 1,075 feet.

The minute is being billed as a pilot program and has a life of five years. Still, it probably represents the single greatest stride toward bi-national management of the river since the execution of the 1944 treaty. In the intervening years, the United States and Mexico have negotiated issues like the development of [international](#) reservoirs, the joint operation of [sanitation](#) facilities and the [salinity](#) of deliveries to Mexico. In the last couple decades, the health of the beleaguered river delta has been given greater attention. But most of the amendments to the treaty have been noncommittal or small in scope.

In addition to its allocation rules, Minute 319 includes provisions aimed at promoting conservation and helping Mexico rebuild the water infrastructure that was damaged in a 2010 earthquake in the Mexicali Valley.

The minute allows Mexico to defer deliveries while it rebuilds infrastructure, for instance, and in the meantime store its allocations in Lake Mead. Though not an international reservoir like Falcon or Amistad, Lake Mead – which is about 300 miles from the border – would serve a more directly international purpose than it does now.

It is likely that population pressures and the [impact](#) of global warming, which is expected to drive demand for water up in the hot Southwest while making precipitation more variable, will prompt the United States and Mexico to continue to engage in this sort of cooperative approach to water management. Some planners have floated the proposal of developing a bi-national desalination plant on the Sea of Cortez, for instance, and using the water to meet supply needs in Arizona. And regulations are inevitable for the transboundary aquifers that provide water along much of the border – such as the Hueco Bolson, which supplies drinking water to El Paso and Juarez – that are currently – such as the Hueco Bolson, which supplies drinking water to El Paso and Juarez – and are currently not subject to any international treaties.



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